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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

RUSSELL C. ROBERTS, JR.,	)	Case No.: 08-cv-01338 JL
	)	
Plaintiff,	)	<b>PLAINTIFF'S OBJECTION TO CRANE</b>
	)	<b>CO.'S UNTIMELY, REDUNDANT, AND</b>
vs.	)	<b>IMPROPER REQUEST FOR ORAL</b>
	)	<b>ARGUMENT ON PLAINTIFF'S MOTION</b>
A.W. CHESTERTON COMPANY, <i>et al</i> ,	)	<b>FOR REMAND</b>
	)	
Defendants.	)	
	)	
	)	Courtroom: F, 15th Floor
	)	Chief Magistrate Judge: Hon. James Larson

Plaintiff objects to defendant's March 18, 2008, Request for Oral Argument on the following grounds:

1. The Request violates Local Rule 7-3(d) of the Local Rules of the Northern District of California ("ND Cal"), which provides that "once a reply is filed, no additional memoranda, papers or letters may be filed without prior Court approval."

2. The Request violates Federal Rule of Civil Procedure 78(b), which provides that "[b]y rule or order, the court may provide for submitting and determining motions on briefs, without oral hearings."

3. The Request violates ND Cal Local Rule 7-9. On March 18, 2008, this Court notified the parties that Plaintiff's Motion to Remand was deemed submitted without

appearances and without oral argument by counsel. CRANE CO.'s Request for Oral Argument, made after the Court's Notice that no oral argument would occur, thus constitutes an improper motion for reconsideration of an interlocutory order, in violation of ND Local Rule 7-9(a) ("No party may notice a motion for reconsideration without first obtaining leave of Court to file the motion"), Local Rule 7-9(b) (moving party must specifically show materially different fact or law than existed before entry of the interlocutory order for which reconsideration is sought and reasonable diligence in not knowing such fact or law earlier or a manifest failure by the Court to consider material facts or dispositive legal arguments presented to the Court before such order), and Local Rule 7-9(c), which prohibits repetition of any previous argument. Local Rule 7-9(c) further provides that "[a]ny party who violates this restriction [about repeating previous argument] shall be subject to appropriate sanctions."

CRANE CO. previously requested oral argument in CRANE CO. and Plaintiff's Stipulation to Allow Plaintiff's Motion to Remand to Be Heard On Shortened Time. See Exhibit 5 to Healy Declaration in Support of Plaintiff's Motion for Order Shortening Time, first paragraph, which states: "Crane Co. enters into this stipulation with the understanding that plaintiff requests the briefing schedule set forth below. Further, Crane Co. requests oral argument of Plaintiff's Motion for Remand." Based in part on this stipulation, fully executed by counsel for CRANE CO. and MR. ROBERTS, this Court entered an Order Shortening Time which provided that oral argument, if any, would occur on March 19, 2008. CRANE CO. was therefore on notice when it signed the stipulation and again when the Court entered its Order Shortening Time that this Court might exercise its authority to rule on Plaintiff's Motion without oral argument. Yet CRANE CO. filed its Opposition without raising some of the matter it now asserts in its Request for Oral Argument, thus depriving plaintiff of an opportunity to respond thereto. Such conduct is inappropriate and potentially prejudicial to plaintiff.

DATED: March 19, 2008

PAUL & HANLEY LLP

By: 

Deborah R. Rosenthal  
Attorneys for Plaintiffs

**CERTIFICATE OF SERVICE - FRCivP 4(d)**

I am employed in the County of Alameda, State of California, I am over the age of 18 years and not a party to the within action. My business address is 1608 Fourth Street, Suite 300, Berkeley, CA 94710. On March 19, 2008, I served the foregoing:

❖ **PLAINTIFF'S OBJECTION TO CRANE CO.'S UNTIMELY, REDUNDANT, AND IMPROPER REQUEST FOR ORAL ARGUMENT ON PLAINTIFF'S MOTION FOR REMAND**

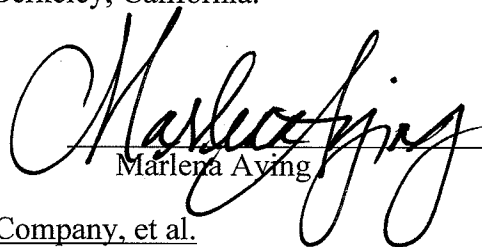
and a copy of this declaration to the interested parties herein as follows:

[XX] By submitting an electronic version to ECF for service upon:

**Attorneys for Defendant JOHN CRANE, INC.**  
KIRKPATRICK & LOCKHART PRESTON GATES ELLIS, LLP (SF)  
55 Second Street, Suite 1700  
San Francisco, CA 94105  
Phone: (415) 882-8200  
FAX (415) 882-8220

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed in Berkeley, California.

DATE: March 19, 2008

  
Marlena Aving

**Russell C. Roberts, Jr. v. A.W. Chesterton Company, et al.**  
Northern District of California Case No. 08-cv-01338JL